



United States
Department of
Agriculture

Farmers
Home
Administration

Washington
D.C.
20250

FmHA AN No. 1318 (1910)

January 3, 1986

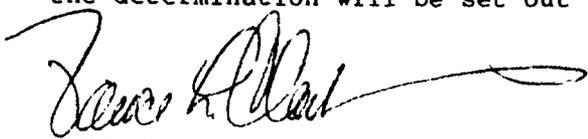
SUBJECT: The Use of the Term "Character" in County Committee Rejection Letters

TO: All State Directors, Farmer Program Chiefs,
District Directors and County Supervisors

PURPOSE/INTENDED OUTCOME: This AN revises and replaces AN No. 1053 (1910) issued August 1, 1984, and which expired on August 31, 1985. It allows FmHA to use the term "character" when rejecting an applicant.

IMPLEMENTATION RESPONSIBILITIES: Section 333 (b) of the Consolidated Farm and Rural Development Act requires the county committee to certify that an applicant "has the character...to carry out the proposed operations..." However, a rejection letter stating that an applicant lacks "character", without an explanation as to what is meant by the use of that term, could be misinterpreted by the applicant. FmHA Instructions 1941-A, 1943-A, and B specify that the term "character" relates solely to debt repayment ability and reliability. When "character" is used in a rejection letter for an OL, FO, or SW loan there will always be an explanation that the use of that term relates only to the applicant's debt repayment ability and reliability. The facts supporting that determination will be set out in the rejection letter.

FmHA Instruction 1945-D states that emphasis should be given to repayment ability and reliability when evaluating an applicant's character. This means that it is important to consider debt repayment ability and reliability, but other factors may be considered so long as they are legitimate concerns of a government lender such as FmHA. For example, an applicant's lifestyle or personality are not legitimate concerns of FmHA. Also, as we have advised you previously, the fact that an applicant has been arrested or indicted for a crime should not be considered by FmHA when evaluating character. However, the fact that an applicant has been convicted of theft, conversion, tax evasion, misappropriation of funds, or crime involving fraud, for example, is of legitimate concern to FmHA. These kinds of crimes reflect on the applicant's character for conducting business, for dealing with property and for meeting obligations as they become due. Therefore, for EM loans only, it is permissible to consider some factors other than repayment ability and reliability when deciding whether an applicant has the character to carry out the proposed operation. When the term "character" is used in an EM loan rejection letter, there will always be an explanation of the use of that term and facts supporting the determination will be set out in the letter.


VANCE L. CLARK
Administrator

EXPIRATION DATE: September 30, 1986

FILING INSTRUCTIONS: Preceding
FmHA Instruction 1910-A



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